

## Instrument Comparison Synopsis

	<b>Rule to Show Cause (Form CC-1355) and Criminal Show Cause Summons (Form DC-360X)</b>	<b>Capias to Show Cause (Form CC-1356)</b>	<b>Capias (Form DC-361X PC)</b>
<b>Background (technical description)</b>	<p>"Court order, decree execution, etc. to appear as directed, and present to the court such reasons and considerations as one has to offer why a particular order, decree, etc., should not be confirmed, take effect, be executed, or as the case may be. An order to a person or corporation, on motion of opposing party, to appear in court and explain why the court should not take a proposed action. If the person or corporation fails to appear or to give sufficient reasons why the court should take no action, the court will take action."</p> <p>"A court ruling directing the recipient to appear and present to the court such reasons and considerations as one has to offer why the recipient should not be punished for violating a court order or legal process or for contempt of court."</p>	<p>Instrument of notice, arrest and detainer.</p> <p>"A type of arrest document issued by the court charging the offender with a violation of a court order or court process of contempt of court."</p> <p>In revocation hearings, where preceded by an unanswered show cause summons or while under supervision: may be used as charging document to also serve respondent/defendant on Failure to Appear (FTA) or Contempt of Court (COC).</p>	<p>Instrument of notice, arrest and detainer.</p> <p>"A type of arrest document issued by the court charging the offender with a violation of a court order or court process of contempt of court."</p> <p>May be used by district and circuit courts for bail and bond revocation and/or sanctioning (for purge-able contempt).</p> <p>Used by circuit court to detain indicted defendants.</p> <p>May be used to detain a defendant for cases which are reinstated, or notification of other criminal matters.</p>
<b>Initiate a new criminal charge?</b>	<p>Instrument of notice - revocation. Does not generally initiate or constitute a new charge.</p> <p><i>Exception:</i> Judge may charge and adjudicate a defendant on COC offense during the revocation hearing. In this instant, an offense should be counted as a new charge. The disposition would be recorded onto the show cause instrument, but the instrument does not serve as a charging vehicle. The offense is during the hearing, and is therefore subsequent to the show cause motion itself.</p>	<p>Yes - <i>conditional</i></p> <p>If instrument contains new criminal charges of FTA or COC resulting from the instant offense and/or subsequent show cause hearing, regard as new offense(s).</p> <p>Depending on matters indicated on the document at the time of service, matters may be adjudicated separately or bundled and disposed of during revocation hearing.</p>	<p>Yes - <i>conditional</i></p> <p>If instrument contains new criminal charges of FTA or COC resulting from the instant offense and/or subsequent show cause hearing, regard as new offense(s).</p> <p>Depending on matters indicated on the document at the time of service, matters may be adjudicated separately or bundled and disposed of during revocation hearing.</p>
<b>Assign OTN?</b>	<p>No</p> <p><i>Exception:</i> Judge may charge and adjudicate a defendant on COC offense during the revocation hearing. In this instant, an offense should be counted as a new charge. The disposition would be recorded onto the show cause instrument, but the instrument does not serve as a charging vehicle. The offense is</p>	<p>Conditional upon selection of criterion.</p> <p>If FTA or COC is indicated in addition to revocation hearing matters, assign OTN.</p> <p>CCRE-reportable should be selected in this event.</p>	<p>Conditional upon selection of criterion.</p> <p>If FTA or COC is indicated in addition to revocation hearing matters, assign OTN.</p> <p>CCRE-reportable should be selected in this event.</p>

	during the hearing, and is therefore subsequent to the show cause motion itself.		
<b>Court processes</b>	<ul style="list-style-type: none"> <li>❑ Affidavit submitted to the Clerk of Court alleging non-compliance or intractable behavior; may be routed through Commonwealth's Attorney if involves local probation (this varies by jurisdiction, with officers in some localities submitting documentation to directly to the court for issuance of show cause summons or other instrument per authority granted in §19.2-152.4:1 and §19.2-303.3)</li> <li>❑ Clerk files forms and issue show cause summons</li> <li>❑ Defendant is notified of revocation or reinstatement hearing via postal mail or direct service (can include posting by law enforcement officer on the person dwelling entrance)</li> </ul>	<ul style="list-style-type: none"> <li>❑ Affidavit submitted to the Clerk of Court alleging non-compliance or intractable behavior through the court (Judge) or other complainant (Commonwealth's Attorney, probation officer) for request to file capias.</li> <li>❑ Clerk completes court forms and capias (through CAIS) or document is completed directly by judge (manual); may be fulfilled by magistrate</li> <li>❑ Prepared capias routed to Sheriff for service</li> </ul>	<ul style="list-style-type: none"> <li>❑ Affidavit submitted to the Clerk of court alleging non-compliance or report directly to the judge; pretrial services supervision violations may be routed through Commonwealth's Attorney (this varies by jurisdiction, with officers in some localities submitting documentation to directly magistrate for capias per authority granted in §19.2-152.4:1 and §19.2-303.3)</li> <li>❑ Clerk completes capias (from CAIS), or document completed by judge (manual); may be fulfilled by magistrate</li> <li>❑ Prepared capias routed to law enforcement for service</li> </ul>
<b>Document service or execution type</b>	Via US Postal Service delivery (registered or certified). May also be served manually by police officer.	Sheriff	Sheriff (default servicer) or police officer
<b>Booking/ fingerprinting/ bond determination required?</b>	No	Yes	Yes
<b>System and database design considerations</b>	<p>If defendant is charged with COC offense <i>during</i> a show cause hearing, code as new charge.</p> <p>Code Community Corrections supervision show cause motions are separate from other show causes; these connotes "intractable behavior" while under supervised probation and can be a violation which leads to revocation or reinstatement of deferred sentencing and/or suspended sentence.</p>	If instrument is used to serve defendant with FTA or COC offenses in addition to notifying of show cause hearing (prior to hearing date), code as new charge.	<p>Coding schema to indicate if new charges are attached to revocation hearing matters.</p> <p>All Pretrial Services supervision violation notices should be coded for entry in district and circuit court cases as new offenses.</p>

**NOTE:** Judges, Clerks of Court and Magistrates are all considered "judicial officers" under statute, and may issue either of these documents, as well as other forms of summons, such as a Form 330, Criminal Complaint (frequently utilized by pretrial or local probation officers).